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AUTHOR Greenberg, Mark
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ABSTRACT

The Family Support Act of 1988 requires each state to set up a Job Opportunities and Basic Skills Program (JOBS) to provide a work/education/training program for recipients of Aid to Families with Dependent Children (AFDC) by October 1, 1990. The law provides a broad outline for JOBS leaves the critical decisions to the states; hence, the major choices which will determine whether the programs will be constructive or punitive will be made at the state level. The following questions should be decided early in the planning process: (1) whether parents with very young children should be required to participate; (2) number of participants; (3) categories of participants; (4) opportunities for a volunteers-first program; (5) opportunities for basic and remedial education; (6) cost of activities and number of people served; (7) safeguards to minimize sanctions; (8) provision of income supplements for participants who suffer a net loss of income by taking entry-level jobs; (9) provision of child care at market rates; and (10) time limits for benefits provided under an AFDC-U Program for two-parent families. Implementation may begin as early as July 1, 1989. Program planning may include a demographic study of potential participants and labor market needs using federal matching funds. The planning process should include the following considerations: (1) available resources; (2) the education and training needs of potential participants; (3) the actual cost of education and training components; and (4) projection of a feasible number of participants. The law requires states to develop a state plan that is available for public review and comment, but more public involvement is possible. (FMW)

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by

Mark Greenberg

Center for Law and Social Policy
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Alan Houseman, Executive Director
Mark Greenberg, Senior Staff Attorney

Center for Law and Social Policy
1616 P Street, NW Suite 350
Washington, DC 20036
(202) 328-5140

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JOBS Provisions of the Family Support Act of 1988

Ten Early Choices

The Family Support Act of 1988 gives states an extraordinary amount of choice to structure some sort of work/education/training program for AFDC recipients.

The law requires each state to set up a Job Opportunities and Basic Skills Program (JOBS) between now and October, 1990, and to make JOBS operational throughout the state by October, 1992. Federal law provides a broad outline for JOBS, but leaves the critical decisions to the states. As a result, the major choices which will determine whether the programs will be constructive or punitive will be made at the state level. In some states, those decisions may be made within the next six months.

This text offers a brief overview of 10 questions states must answer in setting up their programs. A more detailed discussion, "Requirements, Issues and Options in the JOBS Program" is available on request from the Center for Law and Social Policy.

1. Will parents with very young children be required to participate?

Some AFDC recipients are exempt from JOBS. This means they cannot be required to participate, and cannot lose their grants if they agree to participate and then fail to comply. Most AFDC recipients are non-exempt. This means the state may require them to participate, and if they fail to comply with program requirements without good cause, the family's AFDC grant will be reduced.

Most AFDC recipients with children age 6 and older are non-exempt. But the state has three choices about exemptions for parents with children under 6.

First, the law makes a parent or relative personally caring for a child under 6 exempt unless the state guarantees child care and limits participation to 20 hours or less per week. So, the state must decide whether to require participation from this group.

Second, the law makes a parent or relative personally providing care to a child under 3 exempt, but lets states choose to reduce the age to as low as 1.

Third, in AFDC-U (two parent) families with children under 6, the law requires participation by one parent, but lets each state decide whether to makes the second parent exempt.

By eliminating the exemption for one or more categories of parents with young children, the state will have a larger pool of mandatory participants. But, as discussed below, the state doesn't need a larger pool in order to meet federal participation standards. The primary effect of eliminating an exemption is to increase the group of people who can be sanctioned for failing to comply with JOBS requirements. Unless a state wishes to run a more punitive program, the state gains nothing by expanding the categories of non-exempt people.

2. How many people will participate?

Because of limited funding, states must decide how many people will actually participate in the program. There are federal participation requirements, which require 7% of the non-exempt participants to participate in 1990, and which gradually expand to require 20% in 1995. So, in the early years, states are only required to have participation by a fairly small percentage of the caseload. States can choose to extend the program to more people, but that is up to the state.

The state's choice about the level of participation has major implications for what kind of program the state runs. A serious education and training component for a participant costs much more than an unsupervised job search, or a work placement with no training. Given the limited funding, if a state opts for very broad participation, it may be difficult or impossible to provide much, if any, serious education and training.

States can approach the question of participation level in two ways: a state can first decide what services are truly needed to get people out of poverty, and then calculate how many people the program can serve in light of program resources and the cost of services; or, the state can first decide how many people will be in the program, and then decide what kind of activities can be afforded in view of the number of participants. The chances of having a program that actually helps people out of poverty will be greatly improved if the state sets its participation level based on the services to be provided, rather than making the quality of services depend on the number of participants.

3. Who will participate?

Unless a state chooses to extend the program to its entire AFDC population, the state has to decide which categories of recipients participate. The law only provides that, to get the maximum federal money, the state must commit at least 55% of its JOBS funds to people in the following four groups:

a) recipients who have received aid for at least 36 of the preceding 60 months;
b) applicants who received aid for at least 36 of the 60 months prior to application;
c) custodial parents under 24 who either:
   i) have not completed high school are not enrolled in high school or its equivalent at the time of application; or
   ii) have had little or no work experience in the preceding year;
d) members of a family in which the youngest child is within 2 years of being ineligible for AFDC because of age (i.e., age 16 in a state that ends AFDC eligibility at age 18).

Apart from directing resources to these target groups, choices about who should participate are completely up to the state. For example, if a state wishes to emphasize education, it might make parents over 24 lacking basic education another target group. A state recognizing that most persons only stay on AFDC for 3 or less years could choose to place low priority on applicants and short-term recipients who do not seek program services.

4. Will the state maximize opportunities for a volunteers-first program?

To a great extent, a state can choose to run a volunteers-first program. Among the federal target groups, the state must serve volunteers first. For the rest of the population, the state can, but does not have to, serve volunteers first.

Given limited resources, and the likelihood that states will only be able to provide services to a small percentage of their AFDC population in initial years, a volunteers-first approach can maximize the dollars that actually go to education and training, and reduce expenditures that would otherwise go to administration and compliance costs.

A volunteers-first program is not the same thing as a purely voluntary program. Even in a volunteers-first program, the state must sanction non-exempt participants who fail to comply with program requirements without good cause. However, it seems reasonable to expect there will be many fewer compliance problems

if people are participating because they choose to do so.

5. Will the state maximize opportunities for basic and remedial education?

The law has a basic requirement that custodial parents under 20 who have not completed high school or its equivalent must participate in an educational activity. However, there are many qualifications. The requirement applies only if the program is available in the political subdivision involved and if state resources otherwise permit. Also, states can choose to exclude some parents under 18 from the requirement, and can require work or training for 18 and 19 year olds if education is "inappropriate." So, the state must decide whether to use program resources to ensure basic education for young parents.

The law also provides that if the state requires participation by an individual over 20 who lacks a high school diploma or equivalent, the state must require educational activities unless the individual demonstrates basic literacy, or has a long-term employment goal that does not require a high school diploma or equivalent. So, the state must decide whether to assure basic education for older participants.

The state may, but need not, let a person already attending college or vocational or technical school continue that schooling, and have it count as satisfactory participation in JOBS. The state can pay child care and transportation costs with JOBS money. So, the state must decide whether to make it possible for people to continue their own self-initiated education, or whether to interrupt self-initiated education by JOBS requirements.

6. Will the state focus on more expensive training for a smaller number of people, or on cheaper activities for a larger number of people?

The state has major choices about which program components to offer, and how much of each component to make available.

State programs must include:
a) high school or equivalent education, basic and remedial education to achieve a basic literacy level, and education for individuals with limited English proficiency.
b) job skills training;
c) job readiness activities;
d) job development and job placement.

States must also include at least two of the following:
a) group and individual job search;
b) on the job training;
c) work supplementation (i.e., using AFDC grant money as a subsidy to an employer who hires the participant);

d) community work experience (i.e., work without pay as a condition of receiving a grant) or another work program approved by the Secretary of HHS.

The state may also offer postsecondary education, and other education, training, and employment activities permitted by HHS regulations.

The state must decide which optional activities to provide. When an activity is mandated, the law does not say how broadly available the activity must be. So, when the state provides an activity, the state must decide how many people will be able to participate in the activity.

State decisions about which activities to provide, and what is involved in an activity, will largely determine whether the state program is constructive. A state could choose to develop an ambitious program of education and training, with resources targeted on training for jobs that get people out of poverty. Or, a state could primarily rely on job search and work-without-pay requirements, and emphasize mandatory and coercive elements of the program.

7. Will the state build in safeguards to minimize sanctions?

States must sanction non-exempt persons who fail without good cause to participate in the program or to accept bona fide job offers. In one-parent families, the part of the grant for the sanctioned person will be stopped. In an AFDC-U family, the part of the grant for both parents will be stopped if only one parent was participating in JOBS; otherwise, the part of the grant for the sanctioned parent will be stopped.

In the first case, the sanction lasts until the failure to comply ceases. In the second case, the sanction lasts for 3 months, or until the failure to comply ceases, whichever is longer. In the third and subsequent cases, the sanction lasts for 6 months, or until the failure to comply ceases, whichever is longer.

Each state must establish a conciliation procedure to resolve disputes about program participation, and must provide for a hearing for disputes not resolved through conciliation.

A state may not run a program without sanctions for non-exempt participants. However, states can choose to reduce the frequency and harshness of sanctions by enacting a broad and realistic definition of "good cause;" requiring regular and clear notice of how to cure the sanction; creating an extensive and serious conciliation procedure genuinely aimed at resolving disputes before they reach the sanction stage.

8. Will the state provide income supplements for people who would suffer a net loss of income by taking entry-level jobs?

States may not require a participant to accept a job if the job would result in a net loss of cash income to the family. States may choose to supplement the income of someone who would lose AFDC by accepting a job that results in a net loss of cash income.

The state option to supplement a worker's wages may provide an attractive way to help people in jobs with potential for upward mobility. In some cases, a job offers genuine prospects for advancement, but the starting wage is so low that the family cannot live on that wage. In such cases, the state could use this provision to give a recipient income support until the time that the job paid enough to make the family better off than the AFDC grant.

9. Will the state provide child care at market rates?

The law says that the state must guarantee child care:

a) for each family with a dependent child requiring such care, to the extent that such care is determined by the state agency to be necessary for an individual in the family to accept employment or remain employed; and
b) for each individual participating in an education and training activity if the state approves the activity and determines that the individual is satisfactorily participating in the activity.

The state has many choices about how to deliver child care. The state can provide the care directly; arrange the care through providers by purchase of service contracts or vouchers; provide cash or vouchers in advance to the family; reimburse the family; or use some other arrangement.

When the state pays for care, it must pay, at least, the lesser of:

a) the actual cost of child care; or
b) $175 a month for a child over 2, $200 a month for a child under 2.

The state may pay a greater amount, up to the local market rate. Federal funds, at the Medicaid rate, are available for child care costs.

The state's decision as to whether to pay market rates will have a major impact on what kind of child care people get. Unwillingness to pay the market rate will virtually assure that people must rely on informal and unlicensed care. A state may

find it difficult or impossible to assure quality care without paying market rates. But this choice is up to the state.

10. Will a state that has not previously provided AFDC-U benefits (AFDC for some two-parent families) make those benefits available as long as a family needs them, or impose time limits on the benefits?

Until now, each state has been able to choose whether to operate an AFDC-U Program. In the basic AFDC Program, a two parent family is ineligible for aid unless one parent is incapacitated. In the AFDC-U Program, a two parent family is eligible for aid if at least one parent meets federal standards for showing a previous connection to the work force.

The law requires all states to adopt an AFDC-U Program. However, in a state that does not currently have AFDC-U, the state may adopt a program in which benefits stop after the first six months each year. This may seem initially attractive to some states as a way of limiting program costs. But it is a fundamental departure from the principle of helping people as long as they need help. And, given the fact that states are developing work/education/training programs to address families' employability, it seems unnecessary to take so drastic a step to prevent people from becoming long-term recipients.

What happens next?

States have considerable choice about when to start their programs, and how rapidly to start. States are not required to implement until October 1, 1990, but may implement as soon as the first quarter after HHS is scheduled to publish proposed regulations. This means a state might be able to implement as early as July 1, 1989.

A state can have an extensive or a minimal planning process. A state wanting a more extensive planning process can begin by exercising a federal option to do a demographic study of potential participants and labor market needs, with federal matching funds for the cost of the study. This study can provide valuable information about where there are or will be unmet labor needs for jobs that pay enough to get a family out of poverty. The study can provide data to tell a state how many people need basic and remedial education. It can help the state find out how many people already have work histories, and need training rather than work experience or a mandated job search.

Ideally, the planning process can be a time for the state to consider available resources, the education and training needs of potential participants, the actual cost of education and training components, and to project a feasible number of participants in light of this data. Then, the state can make decisions about

what categories should participate and whether to serve volunteers first based on the projected size of the participant pool.

The state must decide how open its planning process will be. The law requires states to develop a state plan, and make the state plan available for review and comment sixty days before the plan is submitted to HHS. But a state can choose to have a much more open planning process, with more public involvement.

Finally, the state needs to decide who's going to make the decisions. All the above decisions, and literally hundreds of smaller decisions, have to be made by somebody. Some may be legislative decisions; others may be made by the state agency; others may be left to localities, or to case workers. But now that the legislation is passed, the details that determine whether state programs help or hurt AFDC recipients will depend on state decisions in the coming months.

For more information, contact Mark Greenberg at CLASP, 202=328-5140, 1616 P St., NW, Suite 350, Washington, D.C. 20036.

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